

**DECLARATION AND POWER OF ATTORNEY**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am an original and first inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**“A DENTAL APPLIANCE HAVING AN ALTERED VERTICAL THICKNESS  
BETWEEN AN UPPER SHELL AND A LOWER SHELL WITH AN INTEGRATED  
HINGING MECHANISM TO ATTACH AN UPPER SHELL AND A LOWER SHELL  
AND A SYSTEM AND A METHOD FOR TREATING MALOCCLUSIONS”**

Case No. BER-P-03-052 the specification of which

X is attached hereto.  
(check      was filed on                     , as  
one) Application Serial No.                     .  
and was amended on                     .  
(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent Office all information which is known to me to be material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, 1.56(a)<sup>1</sup>.

I do not know and do not believe this invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, and I believe that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application, and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns, except as identified below:

I hereby claim foreign priority benefits under Title 35, United States Code, 119 of any foreign

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<sup>1</sup>(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of unpatentability.

A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

application(s) for patent or inventor's certificate listed below:

Prior Foreign Application:

| Number | Country | Date |
|--------|---------|------|
|--------|---------|------|

And I hereby appoint Brian M. Mattson (Reg. No. 35,018) of the firm of Patents+TMS, A Professional Corporation as my attorney with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and direct that all correspondence be forwarded to:

Patents+TMS  
A Professional Corporation  
1914 North Milwaukee Avenue  
Chicago, IL 60647  
Telephone: 773/772-6009  
Facsimile: 773/772-3210

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole inventor Dr. Earl O. Bergersen

Inventor's signature

Date

Sep 17, 03

Residence Dorado, Puerto Rico

Citizenship United States

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